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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3615 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAHARSHI DAYANAND PRATHMIK SHALA

Versus

KISHANCHAND OTANMAL TEKWANI

Appearance:

1. Special Civil Application No. 3615 of 1999

MR MUKUND M DESAI for Petitioners

M/S PATEL ADVOCATES for Respondent No. 1

MR KB PUJARA for Respondent No. 2

MR MURALI N DEVNANI for Respondent No. 3

MR MUKESH R SHAH for Respondent No. 7

MR CB DASTOOR for Respondent No. 9

NOTICE SERVED for Respondent No. 11

NOTICE UNSERVED for Respondent No. 14,22,23,24

2. Special Civil ApplicationNo 3484 of 1996

MR MUKUND M DESAI for Petitioners
M/S PATEL ADVOCATES for Respondent No. 1
MR KB PUJARA for Respondent No. 2
MR MURALI N DEVNANI for Respondent No. 3
MR MUKESH R SHAH for Respondent No. 7
MR CB DASTOOR for Respondent No. 9
NOTICE SERVED for Respondent No. 11
NOTICE UNSERVED for Respondent No. 14,22,23,24

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 25/04/2000

ORAL JUDGEMENT

#. Mr.M.M.Desai, for the petitioner. Heard the learned advocate for the parties. The petitioner challenges the order passed by the Gujarat Primary Education Tribunal, in various application Nos.18/95 to 27/95 and allied matters dated 24.2.1999. The present petitioner is respondent no.2 in the said application. Mr.M.M.Desai, appearing for the petitioner, submits that the Tribunal granted exparte ad interim relief and the same was confirmed by the tribunal but no effective opportunity was given to the present petitioner to represent his case on the ground that before availing of any such opportunity the present petitioner shall comply with the orders of exparte interim relief. It is also submitted by Mr.Desai that the application which was filed by the present petitioner was also rejected by the tribunal. Not only that as there was a separate show cause notice issued to the teachers, salary for the month of July, August, 1998 were not paid to the teachers, a Misc.Application was filed by the teachers and the same was clubbed together with the main applications by the tribunal. It is the case of Mr.Desai that every time when the petitioner attempted to present their case, the tribunal asked to comply with the exparte orders granting interim relief passed by the tribunal It may be noted that Mr.Desai is not in a position to show any material irregularity against the said insistence on the part of the Hon'ble tribunal. However, all these applications came to be disposed of by an order which is under challenge in this petition. Looking to the fact and circumstances of the case and with the broad conscience arrived at between the parties after discussion of the matter at length it is deemed fit that this Spl.C.A. may be allowed and the applications shall stand remanded to the tribunal for hearing and final disposal after giving an opportunity of hearing to the present petitioner. The

petitioner shall be at liberty to put forth its defence written as well as oral, that a right to cross examine the witnesses which are examined on behalf of the applicant of the aforesaid applications.

#. In the result this Spl.C.A. is allowed and the impugned order passed in the Education Tribunal in Application No.18/95 to 27/95 and 31/95, 42/95, 55/95, 56/95, 69/95, 76/95, 78/95, 80/95, 77/95, dated 24.2.1999 is quashed and set aside and the aforesaid applications stand remanded to the tribunal for hearing and final disposal with a direction that the tribunal shall give an opportunity to petitioner to pur forth its defence written as well as oral and also with an opportunity to cross examine the witnesses which are examined on behalf of the applicants of the aforesaid applications. This order is made on condition that the petitioner shall within a period of two months from today pay the sum of Rs.10,000/- to each of the applicant towards the cost. In the event the applicant succeed before the tribunal and petitioner is ordered to pay the wages or a compensation, the aforesaid amount of Rs.10,000/- shall not be adjustable. The petitioner shall within a period of 10 weeks from today file its written statement before the tribunal failing which the petitioner shall forfeit its right to written statement. It is also directed that the witnesses which are examined on behalf of the applicants in the aforesaid application shall be made available for cross examination to the present petitioner on or after 17.7.2000 according to convenience of the tribunal. However, the tribunal shall finish the hearing of the matter by 31.8.2000 and shall decide the same by that time.

#. Mr.Pujara, submitted that the petitioner management has reduced the salary of the teachers, who are the respondent herein by a substantiative amount ranging from Rs.700/- to Rs.1,000/- for individual teacher. The said reduction is made effective from January 2000. Mr.Desai, is not able to justify such reduction and hence to bring an amicable atmosphere between the parties the petitioner management is directed to restore the salary which was paid to the teacher prior to January, 2000 with immediate effect i.e. the salary for the month of April, payable in the month of May shall be paid at the same rate which was paid in January including the arrears for three months January, February and March. This
accordingly allowed. Rule is made absolute in the aforesaid terms.

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